KIM RILEY LAW

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November 11, 2021

VIA EMAIL

Kevin P. Shea Partner Nixon Peabody, LLC 70 West Madison, Suite 3500 Chicago, IL 60602-4224 kpshea@nixonpeabody.com

Re: DISPUTE NOTICE -- CVS Caremark's Breach of the Provider Manual

Dear Kevin:

It has come to the attention of AIDS Healthcare Foundation ("AHF") that CVS Caremark has revealed to third parties the existence, content, and/or results contained in the Interim Final Award and the Final Award in American Arbitration Association Case No. 01-19-0004-127 (the "Arbitration"). This conduct violates the CVS Caremark Provider Manuals.

Since last week, many upset AHF patients around the country have been forwarding to AHF copies of WellCare Classic (PDP) ("WellCare") letters informing the patients that AHF pharmacies are being terminated from WellCare's pharmacy networks, and so the patients will have to find new in-network pharmacies or to pay out-of-network prices to continue receiving care from AHF.

Upon inquiring of CVS Caremark – which, as you know, is the pharmacy benefits manager for WellCare – about why AHF is being terminated, a CVS Caremark employee wrote to an AHF employee, "Our contracting options are constrained by the results of a recent arbitration between our respective companies. I suggest you discuss your questions below with your leadership and/or legal counsel."

AHF intends to initiate a new arbitration over this additional breach of contract committed by CVS Caremark.



Kevin P. Shea, Esq. Nixon Peabody November 16, 2021 Page | 2

AHF is prepared and available to have a dispute resolution discussion at any time for the remainder of this week and next week also.

We will correspond with you in the near future concerning AHF's other claims against CVS Caremark for its evidently retaliatory action.

AHF reserves all of its rights, remedies and arguments.

Very truly yours,

RILEY LAW

Cc: Tom Myers, Esq. (via email) Jonathan Eisenberg (via email)

Rebecca J. Riley, Esq. (via email)



Pharmacy Update

Amendments to 2022 Caremark Provider Manual:

Glossary

Effective:

January 1, 2022

In the "Glossary" section of the Provider Manual (beginning on page 116), the term "Law" has been deleted in its entirety and replaced with the following:

"Law means any Federal, State, local or other constitution, charter, act, statute, law, ordinance, code, rule, regulation, sub-regulatory guidance (including but not limited to, model contracts between the State Medicaid Agency and managed care organizations, and other guidance from State Medicaid Agencies, such as Medicaid Manuals, Bulletins, and other issuances), order, specified standards, or objective criteria contained in or which are (by express reference or necessary implication) order, specified standards, or objective criteria contained in or which are (by express reference or necessary implication) a condition of granting any applicable permit, license or approval required by Caremark, Provider, or a Plan Sponsor, or other legislative or administrative action of the United States of America, or state or any agency, department, authority, political subdivision or other instrumentality thereof or a decree or judgment or order of a court."

The recipient of this fax may make a request to opt-out of receiving telemarketing fax transmissions from CVS Caremark. There are numerous ways you may opt-out: The recipient may call the toll-free number at 877-265-2711 and/or fax the opt-out request to 401-652-0893, at any time, 24 hours a day/7 days a week. The recipient may also send an opt-out request via email to do not call@cvshealth.com. An opt out request is only valid if it (1) identifies the number to which the request relates, and (2) if the person/entity making the request does not, subsequent to the request, provide express invitation or permission to CVS Caremark to send facsimile advertisements to such person/entity at that particular number. CVS Caremark is required by law to honor an opt-out request within thirty days of receipt. An opt out request will not opt you out of purely informational, non-advertisements, Caremark pharmacy communications such as new implementation notices, formulary changes, point-of-sale issues, network enrollment forms, and amendments to the Provider Manual.

This communication and any attachments may contain confidential information. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution, or copying of it or its contents, is prohibited. If you have received this communication in error, please notify the sender immediately by telephone and destroy all copies of this communication and any attachments. This communication is a Caremark Document within the meaning of the Provider Manual.

2022 PM Amendment #02 Page 1 of 2



15. Miscellaneous

Effective:

January 1, 2022

In the **"15. Miscellaneous"** chapter of the Provider Manual (beginning on page 94), section **"15.09.04 Confidentiality of Arbitration"** has been deleted in its entirety and replaced with the following:

"15.09.04 Confidentiality of Arbitration

Except as may be required by Law, a party, its employees, agents, consultants, authorized representatives, counsel, or arbitrator(s) shall not disclose the existence, content, or results of any dispute or arbitration hereunder without the prior written consent of both parties. In the event a Provider is required by Law to make such a disclosure, Provider shall notify Caremark five (5) business days in advance of such disclosure. Notwithstanding the confidentiality provisions contained herein, Caremark may notify any of its Plan Sponsor clients of any pending arbitration or the results thereof that may impact the client. That notice may include disclosing the underlying documents in the arbitration, including, but not limited to the statement of claim and the opinion rendered in the case. Provider acknowledges and agrees that any breach of this provision would cause Caremark immediate and irreparable injury or loss that cannot be fully remediated by monetary damages. Accordingly, if Provider, its agents, counsel, or arbitrator fail to abide by the terms and conditions set forth in this Arbitration section of the Provider Manual, Caremark shall be entitled to (a) specific performance, including immediate issuance of a temporary restraining order or preliminary injunction enforcing the Agreement, and to judgment for damages (including reasonable attorneys' fees and costs) caused by the breach; (b) an option to void the dispute resolution or arbitration award; and (c) to all other legal and equitable remedies available to Caremark, including termination of the Provider Agreement or Provider's participation in any Caremark network or Plan Sponsor network."

The 2022 CVS Caremark Provider Manual, State Addenda and Amendments are posted on the CVS Caremark Pharmacy Portal. If your pharmacy has not registered to the CVS Caremark Pharmacy Portal, please do so. The CVS Caremark Pharmacy Portal can be found at: rxservices.cvscaremark.com

Your pharmacy will be prompted to set a unique username and password as part of the initial login process. You also will be prompted to read and agree to the pharmacy portal terms of use.

Please note: Detailed pharmacy-specific account information must be entered as part of the initial login process including, but not limited to: pharmacy NCPDP number (seven digits), pharmacy NPI, state license number, DEA number, etc.

For troubleshooting the CVS Caremark Pharmacy Portal registration and/or login process <u>only</u>, please email RxServices@CVSCaremark.com

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Page 2 of 2



COMMERCIAL ARBITRATION RULES DEMAND FOR ARBITRATION

You are hereby notified that a copy of our arbitration agreement a Association with a request that it commence administration of the an answering statement.	nd this demand are being file arbitration. The AAA will prov	d with the American Arbitration vide notice of your opportunity to file
Name of Respondent: Caremark, LLC		
Address: One CVS Drive	<u> </u>	
City: Woonsocket	State: Rhode Island	Zip Code: 02895
Phone No.: Unknown to Claimant	Fax No.: Unknown to Claimant	
Email Address: Unknown to Claimant		
Name of Representative (if known): Kevin Shea, Esq.		
Name of Firm (if applicable): Nixon Peabody		
Representative's Address: 70 W. Madison Street, Suite 5200		
City: Chicago,	State: Illinois	Zip Code: 60602-4378
Phone No.: 312-977-4860	Fax No.: 844 577 4645	
Email Address: kpshea@nixonpeabody.com		
The named claimant, a party to an arbitration agreement which potential the American Arbitration Association, hereby demands arbitration	rovides for arbitration under th n.	ne Commercial Arbitration Rules of
Brief Description of the Dispute:		
Breaches of contract, breaches of implied covenant of good faith and fai See attached Demand for Arbitration	r dealing.	
Dollar Amount of Claim: \$ \$3,905,907.20		
Other Relief Sought: 🗹 Attorneys Fees 🗹 Interest 🗹 Arbitration		
Other: Temporary Restraining Order, Order to Show Cause re Preli	ninary Injunction, and Prelimina	ary Injunction
Amount enclosed: \$ 3,850		
In accordance with Fee Schedule: ☑ Flexible Fee Schedule ☐ St		
Please describe the qualifications you seek for arbitrator(s) to be		
Claimant requests the appointment of an arbitrator with experience and of the Medicare Part D programs.	l knowledge concerning Pharma	cy Benefits Managers and the operation
Hearing locale: Scottsdale, Arizona		
(check one) □ Requested by Claimant ☑ Locale provision includ	ed in the contract	
Estimated time needed for hearings overall:	hours or 5	days



COMMERCIAL ARBITRATION RULES DEMAND FOR ARBITRATION

Type of Business:				
Claimant: Non Profit healthcare provider and pharmacy operator	Respondent: Pharmacy Ben	efits Manager		
Are any parties to this arbitration, or their controlling shareho	older or parent company, from di	fferent countries than each other?		
Not to Claimant's knowledge				
Signature (may be signed by a representative):	Date: December 1, 2021	그에 무슨무슨 그는 그는 그들은 그는 그들은 그를 가는 것이 되었다.		
Name of Claimant: AIDS Healthcare Foundation				
Address (to be used in connection with this case): 6255 West Sunset Boulevard, 21st Floor				
City: Los Angeles	State: California	Zip Code: 90028		
Phone No.: 323-860-5200	Fax No.: 323-467-8450	Fax No.: 323-467-8450		
Email Address: not applicable				
Name of Representative: Tom Myers, Esq. of AIDS Healthcare	Foundation and Andrew F. Kim, Es	q. and Rebecca J. Riley, Esq.		
Name of Firm (if applicable): Kim Riley Law				
Representative's Address: 9601 Balboa Boulevard, #552				
City: Northridge	State: California	Zip Code: 91325		
Phone No.: 818-216-5288	Fax No.: None	Fax No.: None		
Email Address: akim@kimrileylaw.com; rriley@kimrileylaw.com	ı; tom.myers@ahf.org			
To begin proceedings, please file online at <u>www.adr.org</u>/f Arbitration Agreement, and pay the appropriate fee.	ileonline. You will need to upload	d a copy of this Demand and the		



COMMERCIAL ARBITRATION RULES DEMAND FOR ARBITRATION

You are hereby notified that a copy of our arbitration agreement a Association with a request that it commence administration of the an answering statement.	and this demand are being e arbitration. The AAA will	provide notice of your opportunity to file
Name of Respondent: CaremarkPCS, LLC		
Address: Unknown to Claimant		
City: Unknown to Claimant	State: Select	Zip Code:
Phone No.: Unknown to Claimant	Fax No.: Unknown to Claimant	
Email Address: Unknown to Claimant		
Name of Representative (if known): Kevin Shea, Esq.		
Name of Firm (if applicable): Nixon Peabody		
Representative's Address: 70 W. Madison Street, Suite 5200		
City: Chicago,	State: Illinois	Zip Code: 60602-4378
Phone No.: 312-977-4860	Fax No.: 844 577 4645	
Email Address: kpshea@nixonpeabody.com		
The named claimant, a party to an arbitration agreement which party the American Arbitration Association, hereby demands arbitration	provides for arbitration und n.	er the Commercial Arbitration Rules of
Brief Description of the Dispute:		
Breaches of contract, breaches of implied covenant of good faith and fa See attached Demand for Arbitration	ir dealing.	
Dollar Amount of Claim: \$ \$3,905,907.20		
Other Relief Sought: 🗹 Attorneys Fees 🗹 Interest 🗹 Arbitratio		
Other: Temporary Restraining Order, Order to Show Cause re Preli	iminary Injunction, and Preli	minary Injunction
Amount enclosed: \$ 3,850		
In accordance with Fee Schedule: 🗹 Flexible Fee Schedule 🗆 S		
Please describe the qualifications you seek for arbitrator(s) to be		
Claimant requests the appointment of an arbitrator with experience an of the Medicare Part D programs.	d knowledge concerning Pha	rmacy Benefits Managers and the operation
Hearing locale: Scottsdale, Arizona (check one) □ Requested by Claimant ☑ Locale provision include	ded in the contract	
Estimated time needed for hearings overall:	hours or 5	days



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Type of Business:		
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Are any parties to this arbitration, or their controlling sharehold Not to Claimant's knowledge	er or parent company, from di	fferent countries than each other?
Signature (may be signed by a representative):	Date: December 1, 2021	
Name of Claimant: AIDS Healthcare Foundation		
Address (to be used in connection with this case): 6255 West Su	nset Boulevard, 21st Floor	
City: Los Angeles	State: California	Zip Code: 90028
Phone No.: 323-860-5200	Fax No.: 323-467-8450	
Email Address: not applicable		
Name of Representative: Tom Myers, Esq. of AIDS Healthcare Fo	undation and Andrew F. Kim, Es	q. and Rebecca J. Riley, Esq.
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Phone No.: 818-216-5288	Fax No.: None	
Email Address: akim@kimrileylaw.com; rriley@kimrileylaw.com; to	om.myers@ahf.org	
To begin proceedings, please file online at <u>www.adr.org/files</u> Arbitration Agreement, and pay the appropriate fee.	online. You will need to upload	d a copy of this Demand and the